

Message Text

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21

ORIGIN L-03

INFO OCT-01 NEA-10 ISO-00 AID-20 H-03 IGA-02 RSC-01 /040 R

DRAFTED BY L/NEA:ATBROWN:DLS

APPROVED BY NEA:SSOBER

NEA/PAB:PDCONSTABLE

AID/ASIA:ADWHITE

AID/GC/ASIA:WBGAIR

L:AWROVINE

H:MR. SCHNEE

----- 101005

R 180043Z APR 74

FM SECSTATE WASHDC

TO AMEMBASSY DACCA

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E.O. 11652: N/A

TAGS: EAID, BG

SUBJECT; AID BILATERAL AGREEMENT: PARA 4 COMMENTS

1. LANGUAGE CONTAINED SEPTTEL DESIGNED TO RESOLVE FOLLOWING
ISSUES RAISED BY L RE AMBIGUITIES CONTAINED IN ORIGINAL
LANGUAGE:

2. UNCLEAR WHETHER LAST PHRASE 4(A) ("WHILE SUCH...HERE-
UNDER") APPLIES TO WHOLE PARAGRAPH OR ONLY TO "TARIFFS,
DUTIES," ETC., IN SECOND PART.

3. LANGUAGE OF PROVISIO TO 4(A) SEEMS TO MAKE TAXES, DUTIES,
ETC. PAYABLE BY SAME ENTITIES EXEMPTED IN 4(A). THUS,
"ENTITY OR INDIVIDUAL WITHIN PRB FOR WHOM OR ON WHOSE BEHALF
THE GOODS ARE ACQUIRED" COULD REFER TO AID CONTRACTOR
EXEMPTED IN 4(A).

4. PARA 4(B) GRANTS UNQUALIFIED EXEMPTIONS TO SPECIFIED
ORGANIZATIONS AND PERSONS. THE FOLLOWING (UNNUMBERED)
PARA PROVIDES FOR PAYMENT OF TAXES BY BDG ON BEHALF OF
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MANY OF SAME TAXPAYERS (E.G., PERSONNEL AND ORGANIZATIONS

UNDER CONTRACT WITH USG AND PERSONNEL AND FAMILIES OF SUCH ORGANIZATIONS), BUT ONLY IN RESPECT TO INCOME ON WHICH THEY ARE TAXABLE BY ANOTHER GOVERNMENT. RESULT IS AMBIGUITY AS TO WHETHER TAXPAYERS LISTED IN BOTH PLACES HAVE FULL EXEMPTION UNDER 4(B) OR NOT. THIS EVEN MORE CONFUSING IN CASE OF 4(B)(IV) PERSONNEL.

5. SUBSTANTIAL INCONSISTENCY IN USE OF TERMS GIVES RISE TO PRESUMPTION OF DIFFERENCE IN MEANING WHERE NONE IS INTENDED:

A. 4(A) PROVISIO REFERS TO "FEES", A TERM NOT INCLUDED IN 4(A) ITSELF. SIMILAR PROBLEM WITH "FEES" IN 4(B). ARE "FEES" COVERED OR NOT?

B. 4(A) PROVISIO REFERS TO TAXES, DUTIES, ETC. LEVIED UNDER LAWS OF PRB "OR ANY OF ITS GEOGRAPHICAL SUBDIVISIONS". QUOTED PHRASE NOT USED IN UNNUMBERED PARA FOLLOWING THE PROVISIO, IN PARA 4(B), OR IN UNNUMBERED PARA FOLLOWING 4(B), SUGGESTING TAXES OF SUBDIVISIONS NOT EXEMPT.

C. PARA 4(A): "ANY CONTRACTOR OR SUPPLIER". PARA FOLLOWING 4(A): "ANY CONTRACTOR", SUGGESTING SUPPLIERS NOT INCLUDED.

D. PARA 4(B)(I): "PUBLIC OR PRIVATE CORPORATIONS". PARA 4(B)(III) AND FOLLOWING UNNUMBERED PARA: "PUBLIC OR (AND) PRIVATE ORGANIZATIONS", SUGGESTING UNINCORPORATED BUSINESSES (PARTNERSHIPS) EXCLUDED FROM 4(B)(I).

E. UNNUMBERED PARA FOLLOWING 4(A) PROVISIO: "APPLICABLE TAXES, CUSTOMS AND DUTIES". DOES "APPLICABLE TAXES" REFER TO USE, OWNERSHIP AND TRANSFER TAXES, OR SIMPLY IMPORT AND EXPORT TAXES (SEE 4(A))?

F. VARYING COVERAGE AS BETWEEN FIRST TWO SENTENCES 4(C): ARE USG EMPLOYEES ALLOWED ONE CAR PER FAMILY MEMBER? ARE THEY ENTITLED TO ANY "CONSUMABLE ITEMS"? ARE "ALL OTHER PERSONNEL" COVERED IN SECOND SENTENCE ALLOWED "EQUIPMENT AND SUPPLIES"? DOES THE LAST SENTENCE ("EACH LIMITED OFFICIAL USE

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SUCH PERSON") APPLY TO USG EMPLOYEES AS WELL AS "ALL OTHER PERSONNEL"?

6. LANGUAGE DIFFICULT TO FOLLOW IN A NUMBER OF PLACES, ESP. 4(A). KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, FOREIGN ASSISTANCE, TAXES, TAX RELIEF
Control Number: n/a
Copy: SINGLE
Draft Date: 18 APR 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE078667
Document Source: CORE
Document Unique ID: 00
Drafter: ATBROWN:DLS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740089-1088
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740432/aaaabscsc.tel
Line Count: 112
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 14 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <14-Aug-2002 by elyme>; APPROVED <12-Sep-2002 by MorefiRH>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: AID BILATERAL AGREEMENT: PARA 4 COMMENTS
TAGS: EAID, BG, US
To: DACCA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005